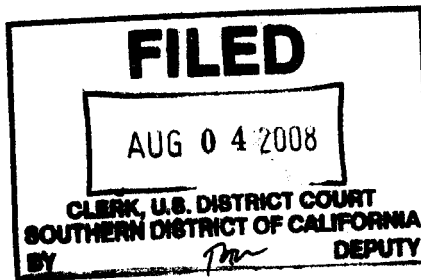


1052



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

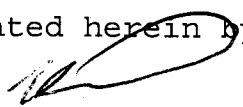
'08 MJ 8690

UNITED STATES OF AMERICA	)	Magistrate Case No.:
	)	
Plaintiff,	)	COMPLAINT FOR VIOLATION OF
v.	)	
	)	21 U.S.C. § 952 and 960
Marcelo LOPEZ-Mendez (1)	)	Importation of a Controlled
David Leonardo HERRERA (2)	)	Substance (Felony)
	)	
Defendants.	)	

The undersigned complainant being duly sworn states:

That on or about August 3, 2008, within the Southern District of California, defendants Marcelo LOPEZ-Mendez and David Leonard HERRERA, did knowingly and intentionally import approximately 58.56 kilograms (128.83 pounds) of marijuana, a Schedule I Controlled Substance, into the United States from a place outside thereof, in violation of Title 21, United States Code, Section 952 and 960.

The complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

  
Vincent McDonald Special Agent  
U.S. Immigration & Customs  
Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 4th  
DAY OF August 2008.

  
Pete C. Lewis  
UNITED STATES MAGISTRATE JUDGE

1 UNITED STATES OF AMERICA

v.

2 Marcelo LOPEZ-Mendez (1)  
David Leonardo HERRERA (2)

3 STATEMENT OF FACTS

4 This complaint is based on the reports, documents, and notes  
5 furnished to U. S. Immigration and Customs Enforcement Special  
6 Agent Vincent McDonald.

7  
8 On August 3, 2008, at approximately 1430 hours, Marcelo  
9 LOPEZ-Mendez, entered the U. S. from the Republic of Mexico via the  
10 Calexico, CA West Port of Entry. LOPEZ was driving a 1993 GMC  
11 pick-up truck and was accompanied by David Leonardo HERRERA.

12 Customs & Border Protection Officer (CBPO) T. Negrón was  
13 conducting primary inspections and encountered LOPEZ and HERRERA.  
14 CBPO T. Negrón referred both occupants and the vehicle to vehicle  
15 secondary (VS) for further examination.

16 CBPO J. Jones was conducting a parking lot sweep of the VS  
17 with his Narcotics Human Detection Dog. The canine alerted to the  
18 tires of the vehicle. CBPO J. Jones then informed CBPO R.  
19 Mendibles of the alert by his canine.

20  
21 CBPO R. Mendibles obtained a negative Customs declaration from  
22 LOPEZ. LOPEZ stated he owned the vehicle and was destined to  
23 Calexico where he resided. HERRERA also claimed to reside in  
24 Calexico. CBPO R. Mendibles continued to inspect the vehicle and  
25 utilized a mechanical device to inspect the tires. CBPO R.  
26 Mendibles stated the device displayed an abnormal reading. CBPO R.  
27 Mendibles removed a tire and stated the tire felt heavy. All four  
28 tires were removed and cut open revealing a total of 38 packages

1 with a total weight of 58.56 kilograms (128.83 pounds). A package  
2 was probed and it field-tested positive for marijuana, a Schedule I  
3 Controlled Substance.

4  
5 LOPEZ was placed under arrest and advised of his  
6 constitutional rights pursuant Miranda. LOPEZ acknowledged those  
7 rights and waived them agreeing to answer questions without the  
8 presence of an attorney. LOPEZ claimed he did not know marijuana  
9 was inside the vehicle and he thinks HERRERA "set him up." LOPEZ  
10 stated the car he was driving does not belong to him. LOPEZ  
11 thought the vehicle was HERRERA's and HERRERA contacted him by  
12 telephone and asked him to assist him driving the car across the  
13 border. LOPEZ stated he drove an "astro van" from "AA" parking to a  
14 "U-haul" on Cole road earlier in the day for HERRERA and this was  
15 the second car he was driving for HERRERA. LOPEZ added he had  
16 spoken to HERRERA on the telephone earlier in the day to set up the  
17 operation. LOPEZ claimed he and HERRERA took a taxi to Mexico to  
18 retrieve the GMC before crossing the vehicle into the U.S.

19  
20 HERRERA was placed under arrest and advised of his  
21 constitutional rights pursuant Miranda. HERRERA acknowledged those  
22 rights and waived them agreeing to answer questions without the  
23 presence of an attorney. HERRERA claimed he did not know marijuana  
24 was inside the vehicle. HERRERA claimed he never knew who LOPEZ was  
25 and he just asked him for a cigarette and a ride across the border  
26 while walking on the street in Mexico. HERRERA then changed his  
27 story and claimed he was just standing on the street in Mexico and  
28

1 met up with LOPEZ. While on the street a friend of LOPEZ  
2 approached HERRERA and asked him to accompany LOPEZ across the  
3 border. HERRERA claimed he has never spoke to LOPEZ on the  
4 telephone.